

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*  
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-MV/LFG

RIO CHAMA STREAM SYSTEM  
Section 7: Village of Chama

Subfile No. CHCV-009-0001

**CONSENT ORDER ON THE WATER RIGHTS OF THE  
JICARILLA APACHE NATION ESTABLISHED UNDER STATE LAW  
ON RECENTLY ACQUIRED LANDS**

This Consent Order concerns the adjudication of the water rights of the Jicarilla Apache Nation established under state law on lands located outside the boundaries of the Jicarilla Apache Reservation as of September 13, 1988.<sup>1</sup> These lands were recently acquired by the Jicarilla Apache Nation, and are generally described as the Willow Creek Ranch, the Chama Ranch, the Mossman Tract and the Boyd Ranch ("Recently Acquired Lands"). These lands are now part of the Jicarilla Apache Reservation and are held in trust by the United States of America ("United States"). The water rights on these lands were established under state law. A portion of the water rights located on the Willow Creek Ranch, the Chama Ranch and the Boyd Ranch have been adjudicated in five (5) Consent Orders between the Jicarilla Apache Nation and the State of New Mexico that were entered by the Court in

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<sup>1</sup> The water rights of the Jicarilla Apache Nation in the Rio Chama Stream System located within the lands proclaimed as part of the Jicarilla Apache Reservation on September 13, 1988, are the subject of the *Partial Final Judgment and Decree of the Jicarilla Apache Tribe* entered on April 6, 1998 (Doc. No. 5797).

these proceedings in 2006 and 2008 (hereinafter “Existing Subfile Orders”). *See* Subfiles CHCV-001-0006 (April 21, 2006, Doc. No. 8238); CHCV-005-0005 (April 21, 2006, Doc. No. 8237); CHCV-006-0006 (April 21, 2006, Doc. No. 8236); CHCV-008-0001 (April 21, 2006, Doc. No. 8239); CHCV-007-0007 (September 3, 2008, Doc. No. 9273). In the Existing Subfile Orders, the amount of water that may be used for irrigation purposes was reserved for future determination by the Court. This element of the Nation’s water rights will be addressed by the Court in a unified proceeding to determine the irrigation water requirements of all irrigation water rights in Section 7.

This Consent Order involves the adjudication of the Nation’s water rights on the Recently Acquired Lands not adjudicated by the Existing Subfile Orders (“Remaining Water Rights”). The Nation, the United States, and the State of New Mexico have reached agreement regarding the elements of the Remaining Water Rights of the Nation on the Recently Acquired Lands, and these rights of the Nation to divert, impound, or use the surface or underground waters of the Rio Chama Stream System are decreed herein.

A summary of the Remaining Water Rights decreed herein on the Nation’s Recently Acquired Lands appears immediately below. A complete description of these rights, including an assigned reference number for each right, and the point of diversion, priority date, source of water, purpose of use and an amount of water for each right, is set out in Tables 1 through 4 on pages 7 to 19 herein. Places of use are shown in five hydrographic survey maps prepared by William J. Miller Engineers, Inc. (November 9, 2011), attached hereto as Exhibit A.

**SUMMARY OF THE REMAINING WATER RIGHTS OF THE JICARILLA  
APACHE NATION ESTABLISHED UNDER STATE LAW ON RECENTLY  
ACQUIRED LANDS AND DECREED HEREIN**

Willow Creek Ranch

44 storage impoundments	176.70 ac./ft. volume total
1 stock spring	0.70 ac./ft./an.
2 domestic wells	3.7 ac./ft./an.
1 irrigation well	232.12 ac./ft./an.

Chama Ranch

98 storage impoundments	636.69 ac./ft. volume total
7 stock wells	4.9 ac./ft./an.
2 commercial wells	12.5 ac./ft./an.

Mossman Tract

7 storage impoundments	13.89 ac./ft. volume total
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Boyd Ranch

1 storage impoundment	1.63 ac./ft. volume
1 domestic well	1.4 ac./ft./an.

Totals For All Four Ranches

150 storage impoundments	828.91 ac./ft. volume total
1 stock spring	0.7 ac./ft./an.
7 stock wells	4.9 ac./ft./an.
2 commercial wells	12.5 ac./ft./an.
3 domestic wells	4.4 ac./ft./an.
1 irrigation well	232.12 ac./ft./an.

The Court, having considered the agreement between the State of New Mexico ("State of New Mexico" or "State"), the United States, and the Jicarilla Apache Nation ("Jicarilla Apache Nation" or "Nation"), and being otherwise fully advised in the premises, FINDS:

1. The Court has jurisdiction over the United States, the State of New Mexico, the Jicarilla Apache Nation, and the subject matter of this suit.

2. As evidenced by the parties' signatures below, the State, the United States, and the Nation are in agreement regarding the elements of the Nation's Remaining Water Rights described in Tables 1 through 4, on pages 7 to 19 herein, to divert, impound, or use the surface or underground waters of the Rio Chama Stream System on the Nation's Recently Acquired Lands described below in subparagraph (A). These lands were not located within the boundaries of the Jicarilla Apache Reservation as of September 13, 1988. The Recently Acquired Lands are now held in trust by the United States for the benefit of the Nation as part of the Jicarilla Apache Reservation:  
  
(A) Willow Creek Ranch; Chama Ranch; Mossman Tract; Boyd Ranch; as those tracts are identified and described in the *Rio Chama Hydrographic Survey, Section 7, Hydrographic Survey Report, Jicarilla Apache Portion*, William J. Miller Engineers, Inc. (September 18, 2009).
3. The United States and the Hydrographic Survey and Mapping Bureau of the Office of the State Engineer have reviewed the information contained in the Nation's September 18, 2009 hydrographic survey report, revised and updated November 9, 2011, by William J. Miller Engineers, Inc. for the Recently Acquired Lands described in paragraph 2(A), including a review of aerial photographs of the area and field inspections of representative hydrologic features. Based on this review, the State and the United States are in agreement with the technical information in the report as modified and incorporated herein.
4. The United States and the Hydrographic Survey and Mapping Bureau of the Office of the State Engineer have reviewed the five hydrographic survey map sheets dated

November 9, 2011, attached hereto as Exhibit A, prepared by William J. Miller Engineers, Inc., and the State and the United States are in agreement with the information on place of use of water rights shown in those maps.

5. The Remaining Water Rights of the Nation on the Recently Acquired Lands described in paragraph 2(A) have been established under state law. All rights of the Nation to divert, impound, or use the surface or underground waters of the Rio Chama Stream System on these lands are decreed in this Consent Order ("Order"), or have been decreed in the Existing Subfile Orders.
6. With the exception of the water rights elements that were reserved for future determination by the Court in the Existing Subfile Orders, all claims based on state or federal law to divert, impound, or use water on the Recently Acquired Lands described in paragraph 2(A) are fully resolved by entry of this Order and the Existing Subfile Orders previously entered in this cause.
7. This Order and the parties' respective signatures below approving the terms of this Order form the entire agreement between the United States, the State, and the Nation as of the date of this Order.
8. There is no just reason for delay of the entry of a final judgment as between the State, the United States, and the Nation regarding the elements of the rights of the Nation adjudicated by this Order.
9. In addition to the rights of the Nation described in the Existing Subfile Orders previously entered in this cause, the Remaining Water Rights of the Nation to divert, impound, or use the surface or underground waters of the Rio Chama Stream System

on the Recently Acquired Lands described in paragraph 2(A) are as set forth below in Tables 1 through 4 on pages 7 through 19 herein. These tables describe the point of diversion, priority date, source of water, purpose of use and an amount of water for each right. Places of use for each right are shown in the November 9, 2011 hydrographic survey maps attached hereto as Exhibit A.

**TABLE 1. WILLOW CREEK RANCH****Storage Impoundments**

Ref. No.	Surface Area (acres)	Depth (ft.)	Volume (acre-feet)	POD X	Y	Priority Date	Source of Water	Purpose of Use
WC-1	3.45	14.67	18.22	1,518,360	2,129,350	2/17/1970	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-2	0.26	5.06	0.79	1,505,870	2,128,180	1996	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-3	0.48	2.83	0.82	1,506,424	2,129,549	1974	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-4	0.23	0.87	0.12	1,509,930	2,128,930	1951	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-5	0.32	4.52	0.87	1,508,683	2,125,053	1951	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-6	1.39	6.08	5.07	1,511,171	2,126,333	1972	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-7	1.20	11.20	8.06	1,515,272	2,126,691	1951	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-8	1.16	14.02	9.76	1,517,590	2,125,975	1996	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-9	0.58	5.59	1.95	1,519,376	2,125,622	1996	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-10	0.16	2.07	0.20	1,518,600	2,123,390	1972	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-11	0.22	3.20	0.42	1,513,421	2,121,566	1951	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-12	0.22	8.20	1.08	1,521,490	2,118,720	2/17/1970	Well RG-19060 (JW-003)	Stockwatering & Recreation
WC-13	0.15	1.25	0.11	1,523,397	2,116,918	2/17/1970	Well RG-19060 (JW-003)	Stockwatering & Recreation

**NOTES:**

X, Y point of diversion for storage impoundments is centerline of spillway and is given in NM State Plane Coordinate System, Central Zone, NAD 1983.

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Ref. No.	Surface Area (acres)	Depth (ft.)	Volume (acre-feet)	POD X	Y	Priority Date	Source of Water	Purpose of Use
WC-13.1	0.12	1.30	0.09	1,523,548	2,116,583	2/17/1970	Well RG-19060 (JW-003)	Stockwatering & Recreation
WC-14	0.35	1.25	0.26	1,523,463	2,116,200	2/17/1970	Well RG-19060 (JW-003)	Stockwatering & Recreation
WC-15	0.14	1.25	0.11	1,523,404	2,115,684	2/17/1970	Well RG-19060 (JW-003)	Stockwatering & Recreation
WC-16	0.31	1.25	0.23	1,523,020	2,114,422	2/17/1970	Well RG-19060 (JW-003)	Stockwatering & Recreation
WC-17	0.21	1.25	0.16	1,522,584	2,113,573	2/17/1970	Well RG-19060 (JW-003)	Stockwatering & Recreation
WC-18	0.09	1.25	0.07	1,522,389	2,113,268	2/17/1970	Well RG-19060 (JW-003)	Stockwatering & Recreation
WC-18.1	0.19	1.30	0.15	1,522,397	2,112,682	2/17/1970	Well RG-19060 (JW-003)	Stockwatering & Recreation
WC-19	3.66	4.47	9.82	1,504,333	2,125,323	1975	An unnamed draw, a tributary of Canada Tio Roques, a tributary of Willow Creek	Stockwatering & Recreation
WC-20	0.20	1.59	0.19	1,503,993	2,116,027	1974	An unnamed draw, a tributary of Canada Tio Roques, a tributary of Willow Creek	Stockwatering & Recreation
WC-21	2.02	7.25	8.79	1,509,288	2,121,707	1972	An unnamed draw, a tributary of Canada Tio Roques, a tributary of Willow Creek	Stockwatering & Recreation
WC-22	1.02	6.75	4.13	1,510,090	2,119,274	1996	An unnamed draw, a tributary of Canada Tio Roques, a tributary of Willow Creek	Stockwatering & Recreation
WC-23	0.09	3.21	0.17	1,509,608	2,112,495	1972	An unnamed draw, a tributary of Canada Tio Roques, a tributary of Willow Creek	Stockwatering & Recreation
WC-24	1.92	4.83	5.56	1,511,381	2,115,341	1951	An unnamed draw, a tributary of Canada Tio Roques, a tributary of Willow Creek	Stockwatering & Recreation
WC-25	0.57	3.49	1.19	1,512,196	2,116,480	1972	Canada Tio Roques, a tributary of Willow Creek	Stockwatering & Recreation

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Ref. No.	Surface Area (acres)	Depth (ft.)	Volume (acre-feet)	POD X	Y	Priority Date	Source of Water	Purpose of Use
WC-26	0.40	2.17	0.52	1,515,967	2,114,974	1972	An unnamed draw, a tributary of Canada Tio Roques, a tributary of Willow Creek	Stockwatering & Recreation
WC-27	0.18	5.54	0.60	1,531,810	2,122,200	1951	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-28	0.91	7.61	4.16	1,539,260	2,121,440	1951	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-29	4.89	12.27	21.60	1,537,130	2,121,090	2/17/1970	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-30	1.32	5.84	4.63	1,534,530	2,122,440	1951	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-31	2.72	9.63	9.43	1,533,150	2,121,980	2004	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-32	1.55	6.08	5.65	1,530,890	2,118,570	1990	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-33	2.29	10.06	8.29	1,539,136	2,117,918	1951	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-34	0.06	0.77	0.03	1,535,623	2,115,186	1951	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-35	3.40	11.54	14.12	1,534,480	2,116,181	2/17/1970	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-36	0.31	5.46	1.02	1,530,360	2,117,440	1951	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-37	0.31	2.21	0.41	1,532,029	2,114,727	1974	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-38	0.69	11.93	4.94	1,538,749	2,113,962	2004	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-39	1.96	14.22	9.97	1,539,694	2,113,272	1990	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-40	1.81	12.09	7.88	1,544,580	2,104,810	1996	An unnamed draw, a tributary of Willow Creek	Stockwatering & Recreation
WC-41	0.34	14.21	2.90	1,543,730	2,123,870	2004	An unnamed draw, a tributary of the Rio Chama	Stockwatering & Recreation

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WC-42	0.43	8.37	2.16	1,544,880	2,121,110	2004	An unnamed draw, a tributary of the Rio Chama	Stockwatering & Recreation
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Subtotal for 44 Storage Impoundments

176.70

### Springs

Ref. No.	POD		Y	Amount of Water (ac./ft./an.)	Priority Date	Purpose of Use
JS-001	X	1,535,390	2,115,750	0.70	1993	Stock & Wildlife Watering

### Domestic Wells

Ref. No.	POD		Y	Amount of Water (ac./ft./an.)	Priority Date	Purpose of Use
JW-001	X	1,517,863	2,126,657	3.0	1983	Domestic & Stockwatering
JW-002		1,511,791	2,124,107	0.7	1983	Domestic & Stockwatering

### Irrigation Wells

Ref. No.	POD		Y	Amount of Water (ac./ft./an.)	Priority Date	Purpose of Use
JW-003	X	1,520,423	2,119,372	232.12	2/17/1970	Irrigation
				(FDR = 2.63 ac./ft./ac.) (CIR = 1.05 ac./ft./ac.)		

### Place of Use

Irrigation of 88.26 acres of land as shown on the attached OSE hydrographic survey map for subfile CHCV-009-0001, amended June 4, 2012 (Exhibit B)

### OSE File No.

RG-19060

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**TABLE 2. CHAMA RANCH****Storage Impoundments**

Ref. No.	Surface Area (acres)	Depth (ft.)	Volume (acre-feet)	POD X	Y	Priority Date	Source of Water	Purpose of Use
C-1	0.16	6.30	0.60	1,556,803	2,159,607	1974	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-2	0.15	16.74	1.51	1,559,278	2,158,774	1974	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-3	1.94	38.80	27.10	1,560,360	2,155,933	8/14/1963	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-4	3.49	39.90	50.13	1,557,687	2,156,776	8/14/1963	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-5	0.31	10.30	1.92	1,552,240	2,153,240	1974	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-6	0.59	17.04	6.03	1,551,630	2,153,240	1974	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-7	0.10	9.48	0.57	1,555,478	2,151,271	1967	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-8	0.17	9.88	1.01	1,561,170	2,152,452	1967	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-9	0.71	17.08	7.28	1,552,800	2,151,960	1951	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-10	0.72	12.18	5.26	1,552,400	2,152,130	1951	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-11	0.11	3.00	0.30	1,562,779	2,152,953	1974	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-12	0.34	5.18	1.06	1,549,250	2,153,550	1974	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-13	1.05	7.70	4.85	1,548,610	2,148,480	1968	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-14	0.52	6.62	2.07	1,548,980	2,146,510	1951	Unnamed tributary of the Rio Chama	Stockwatering & Recreation

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Ref. No.	Surface Area (acres)	Depth (ft.)	Volume (acre-feet)	POD X	Y	Priority Date	Source of Water	Purpose of Use
C-15	7.04	29.01	61.70	1,572,840	2,136,690	8/14/1963	Unnamed tributary of Little Willow Creek	Stockwatering & Recreation
C-16	3.25	12.48	14.60	1,571,440	2,138,290	8/14/1963	Unnamed tributary of Little Willow Creek	Stockwatering & Recreation
C-17	3.03	11.90	16.40	1,564,250	2,151,236	4/25/1964	Unnamed tributary of Little Willow Creek	Stockwatering & Recreation
C-18	0.23	9.74	1.34	1,557,460	2,149,772	1974	Unnamed tributary of Little Willow Creek	Stockwatering & Recreation
C-19	0.36	10.15	2.19	1,556,890	2,148,312	1967	Unnamed tributary of Little Willow Creek	Stockwatering & Recreation
C-20	1.39	19.85	9.93	1,558,230	2,146,854	1967	Unnamed tributary of Little Willow Creek	Stockwatering & Recreation
C-21	0.36	4.52	0.98	1,546,800	2,142,280	1974	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-22	0.98	22.05	7.78	1,557,799	2,138,602	1951	Los Alamos Creek, a tributary of the Rio Chama	Stockwatering & Recreation
C-23	0.19	7.40	0.86	1,556,322	2,138,438	1967	Unnamed tributary of Los Alamos Creek	Stockwatering & Recreation
C-24	0.26	4.97	0.78	1,552,805	2,141,751	1974	Unnamed Tributary of Los Alamos Creek	Stockwatering & Recreation
C-25	4.11	17.65	26.11	1,551,861	2,140,734	8/14/1963	Los Alamos Creek, a tributary of the Rio Chama	Stockwatering & Recreation
C-26	0.79	7.00	3.32	1,550,050	2,140,990	1974	Los Alamos Creek, a tributary of the Rio Chama	Stockwatering & Recreation
C-27	0.58	3.85	1.34	1,547,429	2,139,631	1951	Los Alamos Creek, a tributary of the Rio Chama	Stockwatering & Recreation
C-28	1.07	12.75	8.19	1,548,314	2,137,173	1974	Unnamed tributary of Los Alamos Creek	Stockwatering & Recreation
C-29	0.24	3.79	0.54	1,545,406	2,131,618	1974	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-30	0.35	4.20	0.87	1,546,558	2,132,121	1967	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-31	0.45	4.91	1.32	1,545,745	2,131,159	1967	Unnamed tributary of the Rio Chama	Stockwatering & Recreation

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Ref. No.	Surface Area (acres)	Depth (ft.)	Volume (acre-feet)	POD X	Y	Priority Date	Source of Water	Purpose of Use
C-32	2.21	10.28	8.18	1,544,490	2,135,917	1974	Los Alamos Creek, a tributary of the Rio Chama	Stockwatering & Recreation
C-33	0.87	11.44	5.96	1,557,360	2,133,752	1996	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-34	8.11	29.59	62.80	1,553,445	2,134,551	4/25/1964	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-35	0.10	2.90	0.17	1,553,453	2,137,642	1974	Unnamed tributary of Los Alamos Creek	Stockwatering & Recreation
C-36	0.82	8.74	4.29	1,550,836	2,134,360	2004	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-37	3.43	16.36	32.60	1,551,942	2,132,789	4/25/1964	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-38	1.87	3.25	3.65	1,549,217	2,131,640	1967	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-39	0.40	3.97	0.95	1,550,146	2,133,062	1994	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-40	0.17	3.60	0.37	1,551,302	2,127,880	1967	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-41	10.51	26.21	88.04	1,549,627	2,128,648	4/25/1964	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-42	0.58	4.30	1.50	1,549,040	2,127,875	1994	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-43	2.12	3.75	4.76	1,548,157	2,127,662	1974	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-44	0.19	1.71	0.20	1,547,269	2,126,500	1967	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-45	0.37	6.23	1.38	1,558,151	2,130,933	1974	Unnamed tributary of Canada de la Osa	Stockwatering & Recreation
C-46	0.24	7.06	1.01	1,556,345	2,129,231	1996	Unnamed tributary of Canada de la Osa	Stockwatering & Recreation
C-47	0.26	9.26	1.45	1,556,483	2,128,620	1996	Unnamed tributary of Canada de la Osa	Stockwatering & Recreation
C-48	0.13	4.50	0.34	1,557,604	2,127,578	1997	Unnamed tributary of Canada de la Osa	Stockwatering & Recreation

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Ref. No.	Surface Area (acres)	Depth (ft.)	Volume (acre-feet)	POD X	Y	Priority Date	Source of Water	Purpose of Use
C-49	0.18	10.73	1.19	1,556,662	2,126,528	1994	Unnamed tributary of Canada de la Osa	Stockwatering & Recreation
C-50	0.16	7.69	0.74	1,555,201	2,126,808	1974	Unnamed tributary of Canada de la Osa	Stockwatering & Recreation
C-51	0.97	12.20	7.09	1,554,605	2,127,675	1974	Unnamed tributary of Canada de la Osa	Stockwatering & Recreation
C-52	1.10	8.71	5.75	1,552,174	2,125,808	1974	Canada de la Osa, a tributary of the Rio Chama	Stockwatering & Recreation
C-53	0.04	3.00	0.07	1,551,486	2,125,584	1994	Unnamed tributary of Canada de la Osa	Stockwatering & Recreation
C-54	0.03	3.50	0.06	1,550,674	2,125,944	1994	Unnamed tributary of Canada de la Osa	Stockwatering & Recreation
C-55	2.62	23.37	22.00	1,554,411	2,124,188	4/25/1964	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-56	0.48	10.05	2.89	1,559,128	2,127,644	1951	Unnamed tributary of Canada de la Osa	Stockwatering & Recreation
C-57	8.17	27.70	81.47	1,553,511	2,123,205	4/25/1964	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-58	0.45	4.84	1.31	1,549,928	2,120,244	1961	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-59	0.85	5.08	2.61	1,548,201	2,121,992	1951	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-60	0.50	6.14	1.83	1,555,968	2,120,736	1974	Unnamed tributary of Canones Creek	Stockwatering & Recreation
C-61	0.25	6.43	0.98	1,557,510	2,123,578	1951	Unnamed tributary of Canones Creek	Stockwatering & Recreation
C-62	1.63	7.05	6.89	1,549,928	2,120,244	1951	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-63	0.84	5.77	2.90	1,548,073	2,117,244	1989	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-201	0.24	12.00	1.73	1,556,411	2,152,638	1974	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-202	0.11	8.00	0.53	1,559,445	2,150,518	1967	Unnamed tributary of Little Willow Creek	Stockwatering & Recreation

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Subfile No. CHCV-009-0001

Ref. No.	Surface Area (acres)	Depth (ft.)	Volume (acre-feet)	POD X	Y	Priority Date	Source of Water	Purpose of Use
C-203	0.16	11.00	1.06	1,560,944	2,154,347	1974	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-204	0.12	3.00	0.22	1,564,073	2,153,770	1974	Little Willow Creek, a tributary of the Rio Chama	Stockwatering & Recreation
C-206	0.03	4.00	0.07	1,565,988	2,152,793	1974	Unnamed tributary of Little Willow Creek	Stockwatering & Recreation
C-207	0.01	3.00	0.02	1,569,811	2,152,772	1974	Unnamed tributary of Little Willow Creek	Stockwatering & Recreation
C-209	0.30	4.00	0.72	1,569,696	2,145,422	1974	Unnamed tributary of Little Willow Creek	Stockwatering & Recreation
C-210	0.24	6.00	0.86	1,565,450	2,149,358	1974	Little Willow Creek, a tributary of the Rio Chama	Stockwatering & Recreation
C-211	0.26	4.00	0.62	1,546,088	2,149,266	1974	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-212	0.03	2.00	0.04	1,544,215	2,138,268	1974	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-213	0.03	4.00	0.07	1,544,016	2,136,430	1974	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-214	0.03	2.00	0.04	1,545,306	2,138,264	1967	Los Alamos Creek, a tributary of the Rio Chama	Stockwatering & Recreation
C-215	0.05	6.00	0.18	1,559,842	2,136,347	1974	Unnamed tributary of Los Alamos Creek	Stockwatering & Recreation
C-216	0.01	10.00	0.06	1,565,594	2,133,492	1974	Canada de la Osa, a tributary of the Rio Chama	Stockwatering & Recreation
C-217	0.07	7.00	0.29	1,564,306	2,131,886	1974	Canada de la Osa, a tributary of the Rio Chama	Stockwatering & Recreation
C-218	0.01	2.00	0.01	1,563,911	2,129,783	1994	Unnamed tributary of Canada de la Osa	Stockwatering & Recreation
C-220	0.06	9.00	0.30	1,562,071	2,128,950	1974	Unnamed tributary of Canada de la Osa	Stockwatering & Recreation
C-221	0.70	1.00	0.42	1,547,698	2,144,376	1995	Little Willow Creek, a tributary of the Rio Chama	Stockwatering & Recreation
C-223	0.06	7.00	0.25	1,578,172	2,143,622	1974	Unnamed tributary of Poso Park Creek, a tributary of Canones Creek	Stockwatering & Recreation

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Subfile No. CHCV-009-0001

Ref. No.	Surface Area (acres)	Depth (ft.)	Volume (acre-feet)	POD X	Y	Priority Date	Source of Water	Purpose of Use
C-224	0.02	1.00	0.01	1,581,171	2,144,485	1974	Unnamed tributary of Poso Park Creek, a tributary of Canones Creek	Stockwatering & Recreation
C-225	0.07	6.00	0.24	1,579,669	2,144,932	1974	Unnamed tributary of Poso Park Creek, a tributary of Canones Creek	Stockwatering & Recreation
C-226	0.09	5.00	0.27	1,580,281	2,142,517	1974	Unnamed tributary of Poso Park Creek, a tributary of Canones Creek	Stockwatering & Recreation
C-228	0.11	3.00	0.20	1,577,214	2,140,490	1994	Unnamed tributary of Poso Park Creek, a tributary of Canones Creek	Stockwatering & Recreation
C-229	0.07	3.00	0.13	1,574,001	2,128,585	1974	Canonizria Canyon, a tributary of Canones Creek	Stockwatering & Recreation
C-230	0.21	7.00	0.88	1,571,456	2,130,979	1974	Canonizria Canyon, a tributary of Canones Creek	Stockwatering & Recreation
C-231	0.13	4.00	0.31	1,571,902	2,128,044	1974	Unnamed tributary of Poso Park Creek, a tributary of Canones Creek	Stockwatering & Recreation
C-232	0.01	2.00	0.01	1,567,136	2,123,385	1974	Unnamed tributary of Canones Creek	Stockwatering & Recreation
C-233	0.01	2.00	0.01	1,568,752	2,122,489	1974	Unnamed tributary of Canones Creek	Stockwatering & Recreation
C-234	0.01	1.00	0.01	1,567,904	2,125,272	1974	Canonizria Canyon, a tributary of Canones Creek	Stockwatering & Recreation
C-235	0.45	13.00	3.51	1,566,157	2,128,462	1974	Canonizria Canyon, a tributary of Canones Creek	Stockwatering & Recreation
C-236	0.01	4.00	0.02	1,567,283	2,133,720	1974	Unnamed tributary of Canada de la Osa	Stockwatering & Recreation
C-237	0.01	5.00	0.03	1,563,590	2,134,305	1974	Unnamed tributary of Los Alamos Creek	Stockwatering & Recreation
C-239	0.02	5.00	0.06	1,549,013	2,142,165	1967	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
C-249	0.07	3.00	0.13	1,574,348	2,130,889	1974	Canonizria Canyon, a tributary of Canones Creek	Stockwatering & Recreation
C-250	0.01	2.00	0.01	1,555,099	2,134,380	1974	Unnamed tributary of the Rio Chama	Stockwatering & Recreation
Subtotal for 98 Storage Impoundments			<u>636.69</u>					

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Subfile No. CHCV-009-0001



Groundwater Wells

Ref. No.	Name of Feature	POD	Y	Amount of Water a/f/a	Priority Date	Purpose of Use	OSE File No.
CW-1	Highway Well	X 1,545,019	2,131,201	12.5*	10/1968	Commercial	OSE RG-24975
CW-2	Highway Well (Supplemental)	1,545,349	2,131,345		10/1968	Commercial	OSE RG-24975(S)
CW-3	Baldy Well	1,551,914	2,154,387	0.7	1964	Stock & Wildlife Watering	--
CW-4	South Vaughn	1,554,297	2,142,982	0.7	1964	Stock & Wildlife	--
CW-5	Slaughter Well	1,552,462	2,145,500	0.7	1964	Stock & Wildlife Watering	--
CW-6	Bookout Well	1,555,911	2,135,369	0.7	1964	Stock & Wildlife Watering	--
CW-7	Bear Canyon East Well	1,558,489	2,126,478	0.7	1964	Stock & Wildlife Watering	--
CW-8	Bridge Well	1,543,109	2,138,104	0.7	1964	Stock & Wildlife Watering	--
CW-9	Elk Tank Well	1,557,946	2,130,921	0.7	1964	Stock & Wildlife Watering	--
	Subtotal for 7 Stockwells			<u>4.9</u>			

\* combined annual diversion from CW-1 &amp; CW-2

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Subfile No. CHCV-009-0001

**TABLE 3. MOSSMAN TRACT**

Storage Impoundments								
Ref. No.	Surface Area (acres)	Depth (ft.)	Volume (acre-feet)	POD X	Y	Priority Date	Source of Water	Purpose of Use
M-65	0.48	7.20	2.50	1,589,424	2,138,142	6/28/2004	Off channel surface run off, West Fork of the Rio Brazos	Stockwatering
M-66	0.39	10.00	2.01	1,587,387	2,140,800	06/28/2004	West Fork of the Rio Brazos	Stockwatering
M-67	0.33	10.00	1.80	1,597,385	2,140,972	06/28/2004	West Fork of the Rio Brazos	Stockwatering
M-68	0.71	11.20	4.30	1,606,256	2,140,419	06/28/2004	East Fork of the Rio Brazos	Stockwatering
M-69	0.23	9.60	0.97	1,593,341	2,141,355	07/25/2007	West Fork of the Rio Brazos	Stockwatering
M-70	0.17	9.30	0.66	1,586,340	2,143,925	05/16/2006	Unnamed draw, a tributary of the West Fork of the Rio Brazos	Stockwatering
M-71	0.30	12.00	1.65	1,594,244	2,138,462	07/09/2008	West Fork of the Rio Brazos	Stockwatering
Subtotal for 7 Storage Impoundments				13.89				

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**TABLE 4. BOYD RANCH****Storage Impoundment**

Ref. No.	Surface Area (acres)	Depth (ft.)	Volume (acre-feet)	POD	Y	Priority Date	Source of Water	Purpose of Use
B-64	0.68	4.00	1.63	X	1,545,263	2,117,027	Rio Chama (Ranch 101 Ditch)	Stockwatering & Recreation

**Domestic Well**

Ref. No.	POD	Amount of Water a/f/a	Priority Date	Purpose of Use	OSE File No.
BOYD-1	X	1.4	July 12, 1989	§ 72-12-1 Domestic & Stockwatering	RG-51142

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Subfile No. CHCV-009-0001

10. The Nation has no right to divert, impound, or use the surface or underground waters of the Rio Chama Stream System on the Recently Acquired Lands described in paragraph 2(A) other than those set forth in this Order and in the Existing Subfile Orders.
11. The Nation, its successors, representatives, heirs and assigns, should be enjoined from any use of the public waters of the Rio Chama Stream System except in strict accordance with the water rights described herein and in any other Orders or Decrees entered by the Court in this cause.
12. The water rights described herein are adjudicated subject to the right of any persons or entities with standing to object to individual adjudication orders prior to the entry of a final decree.
13. Agreements and Conditions.

All of the rights of the Nation decreed in this Order and in the Existing Subfile Orders to divert, impound, or use the surface or underground waters of the Rio Chama Stream System on the Recently Acquired Lands described in paragraph 2(A) are **subject to the Agreements and Conditions set out below in this paragraph.**

- (A) The phrase “stockwatering and recreation” as used in this Order includes but is not limited to use for fish and game.
- (B) The water rights of the Nation decreed in this Order and in the Existing Subfile Orders are held by the United States on behalf of the Nation and are not subject to loss through either abandonment or forfeiture by operation of state law so long as the United States or the Nation retains an ownership interest

therein.

(C) The Nation has the right to fill each impoundment identified in Tables 1 through 4 on pages 7 through 19 herein to its full capacity as often as waters are available from the sources of water identified herein or from water imported from outside the Rio Chama Stream System.

(D) Nothing in this Order shall be interpreted to prohibit changes by the Nation in the point of diversion or purpose or place of use of the water rights decreed in this Order and in the Existing Subfile Orders previously entered in this cause;

*Provided that:*

(1) Such changes do not increase the number of the diversions of surface water from the Rio Chama for the irrigation of the Nation's lands, increase the amount of the Nation's total diversions of surface water from the Rio Chama, or change the existing location of the point of diversion of surface water for the irrigation of lands owned by the Nation under the Chama Valley Ditch No. 3 or the Ranch 101 Ditch; provided, that the Nation: (1) may change the location of the point of diversion of surface water for the irrigation of lands under the Chama Valley Ditch No. 3 in circumstances where the existing point of diversion is no longer operable due to washout or other unforeseen circumstances, and (2) may change the location of the point of diversion of surface water for the irrigation of lands under the Ranch 101 Ditch (which includes lands owned by both non-Indians and the

Nation) when that change has been approved by the New Mexico State Engineer as provided by law;

- (2) Such changes shall not impair existing water rights;
- (3) The Nation shall give notice of any proposed change in point of diversion or purpose or place of use by publication once each week for three consecutive weeks in a newspaper of general circulation published in Rio Arriba County and by letter to the New Mexico State Engineer. This notice shall describe with particularity the proposed change in the point of diversion or purpose or place of use of the Nation's water rights, the amount of water involved, and shall specify how to file protests to the proposed change with the Nation.
- (4) Any person, firm or corporation or other entity objecting that the proposed change will be detrimental to the objector's water right shall have standing to file objections or protests.

(E) The provisions of paragraph 13(D) shall apply to any proposed change in point of diversion or purpose or place of use of any water rights used on the Nation's trust lands where the proposed point of diversion or place of use will be located on or transferred to the Recently Acquired Lands described in paragraph 2(A).

(F) The Nation shall provide an administrative process for the evaluation of impairment issues that may arise from proposed changes in points of diversion or purpose or place of use pursuant to paragraph 13(D) and for considering

protests of any such proposed changes. The administrative process shall include consultation between the Nation and the New Mexico State Engineer on proposed changes and potential impairment. The Nation shall not exercise its authority under paragraph 13(D) to implement a proposed change until it has completed the administrative process for the proposed change. Following the completion of the administrative process, the Nation will implement its administrative decision unless there is a request filed with the Court for judicial review. Any request for judicial review shall be filed with the Court within thirty (30) days after an administrative decision is issued by the Nation.

- (G) The notice, consultation and administrative process provisions of paragraph 13(D) shall not apply to: (1) a proposed change in point of diversion or purpose or place of use of water for domestic or stockwatering purposes, *provided*, the resulting total diversion of water at the new point of diversion does not exceed 3.0 acre-feet per annum; or (2) a replacement well drilled within one hundred (100) feet of the original well, *provided*, the replacement well is drilled into the same and only the same underground water source.
- (H) Changes in point of diversion or purpose or place of use of a water right (including leasing) from a location within the boundaries of the Recently Acquired Lands described in paragraph 2(A) to a location outside the boundaries of the Nation's trust lands shall be in accordance with state law; *Provided*, that the Nation may later change the point of diversion or purpose or place of use of the water right to which the Nation retains an ownership

interest back to a place of use within the Nation's trust lands without reduction in the amount of water adjudicated in this Order. In the event the Nation purchases or leases additional water rights from outside the boundaries of the Nation's trust lands, any change in point of diversion or purpose or place of use of those water rights to a location within the boundaries of the Recently Acquired Lands described in paragraph 2(A) shall be in accordance with state law.

- (I) Except as allowed by changes made pursuant to paragraph 13(D) to the point of diversion or purpose or place of use of the Nation's water rights, or changes made pursuant to paragraph 13(H) that involve the transfer of water rights from outside the boundaries of the Nation's trust lands for use on the Nation's trust lands pursuant to state law:

- (1) The total diversion of surface water by the Nation on the Recently Acquired Lands described in paragraph 2(A) shall not exceed the sum of (1) the total amount of surface water diversions adjudicated by this Order, and (2) the total amount of surface water diversions adjudicated in the Existing Subfile Orders, and (3) the total amount of surface water diversions for irrigation purposes to be determined by the Court as described in the Existing Subfile Orders.

- (2) The total diversion of groundwater by the Nation on the Recently Acquired Lands described in paragraph 2(A) shall not exceed the sum of (1) the total amount of groundwater diversions adjudicated by this



Order, and (2) the total amount of groundwater diversions adjudicated in the Existing Subfile Orders, and (3) the total amount of groundwater diversions for irrigation purposes to be determined by the Court as described in the Existing Subfile Orders.

- (J) The Nation shall maintain records of its diversion and impoundment of water pursuant to the water rights described herein, and on or before June 1 of each year the Nation shall prepare and submit a report summarizing these records for the previous calendar year to the Secretary of the Interior, and submit a copy of the report to the New Mexico State Engineer. The New Mexico State Engineer will post the report on the Office of the State Engineer website.
- (K) Fourteen (14) reservoirs listed in Tables 1 through 4 on pages 7 through 19 herein are in excess of 10 acre-feet in capacity and were constructed by the Nation's predecessors-in-interest without permits from the State Engineer. The Nation shall offset the effect of the initial filling of these reservoirs and the continued use of these reservoirs by a one time release of 536.89 acre-feet of San Juan – Chama Project water, with the San Juan – Chama Project water then accounted as stored in the 14 reservoirs by exchange, and by permanently retiring from irrigation the lands identified in Exhibits C (55.70 acres) and D (11.74 acres). The water rights on the irrigated acreage shown in Exhibit C (55.70 acres) were recognized in the Consent Orders entered in subfiles CHCV-005-0005 (April 21, 2006) and CHCV-006-0006 (April 21, 2006). The Nation and the State shall submit a motion and proposed order to revise

those Consent Orders to show that these lands (55.70 acres) are without irrigation water rights ("No Right"). The irrigated acreage shown in Exhibit D (11.74 acres) has been deducted from the irrigated acreage that would otherwise be recognized by this Order, and these lands (11.74 acres) are shown as without irrigation water rights ("No Right") in Exhibit B attached hereto.

(L) The Nation shall allow the State to install and maintain metering devices to measure diversions from the Rio Chama by the Chama Valley Ditch No. 3 for the irrigation of the Nation's lands described in Subfile CHCV-007-0007. The State shall bear the cost of the installation and maintenance of the metering devices, and the type, construction and installation of the metering devices shall be as determined and directed by the Rio Chama Water Master appointed by the New Mexico State Engineer. The Nation shall allow the Water Master access to this measurement station for inspection and maintenance purposes upon request. A request for access for inspection or maintenance purposes shall be made five (5) working days or more in advance. The metering devices shall remain the property of the State.

(M) Under an agreement dated October 18, 2006, between the Nation and the United States Bureau of Reclamation, water flowing from artesian well RG-19060 (*See* Table 1, Ref. No. JW-003) is allowed to flow into the Azotea Channel that transports imported water into the Rio Chama Stream System as part of the San Juan – Chama Project. Water is then pumped out of the channel by means of a portable pump to the earthen ditch on the north side of

the lands irrigated from this well. See OSE hydrographic survey map for Subfile CHCV-009-0001, amended June 4, 2012, attached hereto as Exhibit B. The Bureau of Reclamation allows only that amount of water that is allowed to flow from the artesian well into the channel to be pumped out of the channel. Nothing in this Order shall interfere with this agreement between the Nation and the Bureau of Reclamation; *Provided*, the Nation shall install totalizing metering devices to measure: (1) the flow of water from the artesian well into the Azotca Channel, and (2) the amount of water pumped out of the channel for irrigation and stockwatering purposes. These measurements shall be included in the annual report required by paragraph 13(J). Pursuant to the 2006 agreement between the Nation and the Bureau of Reclamation, debits or credits in the amount pumped may be carried forward one calendar year.


- (N) Nothing contained in this Order shall limit the United States, the State or the State Engineer from pursuing all legal remedies for any breach of the agreements and conditions contained herein.
- (O) This Order shall not be construed to establish precedent of any kind in this or any other judicial or administrative proceeding. In particular, because the description of the water rights adjudicated in this Order is based upon a negotiated settlement, the procedures and methods used to describe such rights shall not be binding under the law of the case doctrine upon any other water right claimant, the State or the United States in the adjudication of other water rights and may not be relied upon as precedent under the *stare decisis* doctrine

in any other water right adjudication suit.

- (P) This Court retains jurisdiction for the interpretation and enforcement of this Order, including the review and resolution of any disputes over whether changes proposed by the Nation in point of diversion or purpose or place of use comply with the criteria and conditions of this Order.

IT IS THEREFORE ORDERED that, in addition to the rights described in the Existing Subfile Orders, the rights of the Jicarilla Apache Nation to divert, impound, or use the surface or underground waters of the Rio Chama Stream System on the Recently Acquired Lands described in paragraph 2(A) (Willow Creek Ranch; Chama Ranch; Mossman Tract; Boyd Ranch) are as set forth in Tables 1 through 4 on pages 7 to 19 herein. The Nation, its successors, representatives, heirs and assigns, and the United States acting as Trustee on behalf of the Nation, are enjoined from any diversion or use of the public waters of the Rio Chama Stream System except in strict accordance with the rights set forth herein and in accordance with any other Orders or Decrees entered by the Court in this cause.


IT IS FURTHER ORDERED that the Court directs the entry of this Consent Order as a final judgment as to the elements of the Nation's water rights set forth herein, subject to the right of any persons or entities with standing to file objections to individual adjudication orders, and to the entry of a final decree in this proceeding.

  
\_\_\_\_\_  
MARTHA VÁZQUEZ  
UNITED STATES DISTRICT JUDGE

Approved:

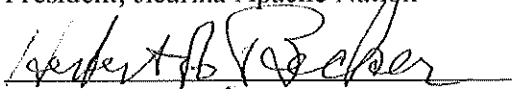
  
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LORENZO F. GARCIA  
UNITED STATES MAGISTRATE JUDGE

Accepted:



TY VINCENTI

President, Jicarilla Apache Nation



HERBERT A. BECKER

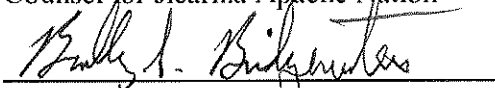
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